8739172/2024/LTR SEC-TBW01

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department - LTR - Revision Petition filed by Sri Boda Appa Rao, S/o. Bimayya, Molleru (V), Gangavaram (M), Alluri Sitharamaraju District against the orders of the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District in C.M.A No:37/2005, dated:08-12-2008 in respect of land measuring Acres 2.88 cents in Sy.No.158 situated at Molleru (V), Gangavaram (M), Alluri Sitharamaraju District erstwhile East Godavari District - Set aside the order - Remanded the case for an enquiry - Orders - Issued.

TRIBAL WELFARE (LTR-I) DEPARTMENT

G.O.Ms.No.16

Dated:15.03.2024
Read the following:

1. Revision Petition filed by Sri Boda Appa Rao, S/o. Bimayya, Molleru (V), Gangavaram (M), Alluri Sitharamaraju District, dated: 09.01.2009.
2. From the Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District, C.M.A. No.37/2005, dated:08.12.2008.

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ORDER:

In the reference 1st read above, Sri Boda Appa Rao, S/o. Bimayya, Molleru (V), Gangavaram (M), Alluri Sitharamaraju District erstwhile East Godavari District against the orders of the Additional Agent to the Government, Rampachodavaram, Alluri Sitharamaraju District in C.M.A.No.37/2005, dated:08.12.2008 in respect of land an extent of 2.88 cents in Sy.No.158 situated at Molleru (V), Gangavaram (M), Alluri Sitharamaraju District erstwhile East Godavari District.

2. Brief history of the subject case:

- The Special Deputy Tahasildar (TW), Gangavaram (M), Alluri Sitharamaraju District erstwhile East Godavari District has filed a Complaint under section 3(1) A.P.S.A.L.T.R., 1959 as amended by Reg. 1/70 for restoration of Petition Scheduled land of Ac.2.88 in Sy.No.158 of Molleru Village and Gangavaram Mandal, Alluri Sitharamaraju District to the Government after ejecting the non-tribal respondents.

- After due verification of the records, the lower court dropped the LTRP cases in favour of respondents as there is no violation under Land Transfer Regulation on the Petition Scheduled Land.

- The Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District has passed the orders in L.T.R.P.No.102/2000, dated:25.06.2002, on verification of the fair adangal of Molleru Village of 1932, The Special Deputy Collector (TW), Rampachodavaram Ordered that the petition scheduled land is held by Kalajala Guravayya and Bhimavarapu Swamy. As per the documents filed it is evident that land was later transferred to kurukulla Maridayya and to other subsequent vendees and finally to the 1st respondent who are all non-tribals and that Petition Scheduled land is never in occupation of tribals and are valid as per law. No information or evidence is available to prove tribal occupation the Petition Scheduled land. Hence it is concluded that the possession of the respondent on Petition Scheduled land is not violative as per Land Transfer Regulations. Hence the case is dismissed.

- Aggrieved by the above orders of the Deputy Tahasildar (TW), Gangavaram (M), Alluri Sitharamaraju District has filed an appeal against the orders L.T.R.P.No.102/2000, dated:25.06.2002, before the Additional Agent to

Government cum Project Officer, I.T.D.A., Rampachodavaram, Alluri Sitharamaraju District.

- The Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District after due verification of the records has set as side the orders passed by the Special Deputy Collector (TW) in LTRP No.102 dated:25.06.2002, confirming the rights of the respondents, over the land for an extent of Ac.2.88 cts in Sy.No.158 in Molleru Village, Gangavaram Mandal in Alluri Sitharama Raju District earstwhile East Godavari District is contrary to law and not valid under APSALTR 1 of 1959 as amended by 1 of 1970 and directed the Tahsildar, Gangavaram Mandal to evict the non-tribal Respondents of any other person bound by this order and restore the same to the Government for onward assignment to the eligible Tribal and comply the report.

3. Aggrieved by the above orders, the Revision Petitioner, Sri Boda Appa Rao, S/o. Bimayya filed a Revision Petition before the Government and requested the Hon'ble Court may be pleased to set-aside the orders passed by the courts below in C.M.A.No.37/2005, dated:08.12.2008 on the file of the Additional Agent to Government, Rampachodavaram while confirming the orders in L.T.R.P.No.102/2000, dated:25.06.2002 on the file of the Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District and pass such other order or orders as are deemed fit or proper in the circumstances of the case. And pass such other order or orders may deem fit and proper in the circumstances of the case.

4. The Project Officer, ITDA, Rampachodavaram cum the Additional Agent to the Government, Rampachodavaram, Alluri Sitharamaraju District has been requested to furnish the detailed Parawise remarks and connected records in the subject case so as to dispose of the Revision Petition at Government level. Accordingly, the Project Officer, ITDA, Rampachodavaram in his letter dated:24.03.2009 has enclosed the copy of order issued by the Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District passed in CMA No.37/2005, dated:08.12.2008 and the remarks on the affidavit filed by the Petitioner.

5. The said Revision Petition has been posted for hearing before the Hon'ble Revision Authority on several dates and finally on 16.12.2023 duly informing the same to the petitioner and defendants. During the course of the hearing and on perusal of the connected records/relevant materials and Para-wise Remarks submitted dated:24.03.2009 by the Project Officer, ITDA, Rampachodavaram cum Additional Agent to the Government, Rampachodavaram, Alluri Sitharamaraju District and written arguments filed by petitioner counsels, the Revision Authority has observed that:

I. This Memorandum of Revision Petition is filed by Sri Boda Apparao, s/o. Bimayya, resident of Molleru Village of Gangavaram Mandal, East Godavari District against the orders of Additional Agent to Government, Rampachodavaram, Alluri Sitharamaraju District erstwhile East Godavari District passed in CMA No. 37/2005, Dt:08-12-2008 while setting aside the orders of the Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District erstwhile East Godavari District passed in LTRP No.102/2000, dated:25.06.2002 which confirming the rights of the non-tribal respondents in respect of scheduled land in Sy.No.82 admeasuring Acs. 6.34 cts. of Molleru village of Gangavaram Mandal, Alluri Sitharamaraju District erstwhile East Godavari District, while directing the Tahsildar, Gangavaram to evict said non-tribal respondents therein or any other person bound by the order and restore the same to the Government for onward assignment to the eligible tribal and comply the report.

II. The matter came up for hearing finally before the Revision Authority on 16-12-2023 in the presence of Counsel for the Revision Petitioner and the Special Deputy Collector (TW) and Special Deputy Tahasildar (TW), ITDA, Rampachodavaram. The Additional Agent to Government furnished Parawise remarks in the matter. The Counsel for the Revision Petitioner also submitted

written arguments along with a new Document sale deed bearing No.419/55. Heard parties. After perusing the material papers available in the file the following order is made.

III. The contention of the Revision Petitioner is that they have been in peaceful possession and enjoyment of the scheduled land in Ac.2.88 cts in Sy.No.158 situated at Molleru Village of Gangavaram Mandal, Alluri Sitharama Raju District and that the order passed by the Special Deputy Collector (TW) Rampachodavaram in LTRP No.102/2000, dated:25-06-2002 is in their favour and that he could not place a document bearing No.88, dt:01.01.1955 during the enquiry before the Special Deputy Collector (TW) Court and that the scheduled land was sold by one Sri Kurlakula Maridayya, S/o. Subbayya to the Kamisetty Narayana Murthy vide Sale Deed Doc No.476, dt.07.06.1935 and the said lands were sold further by the Vendor Sri Kamisetty Narayana Murthy to Smt. Koruru Parvathamma vide document No. 1166 dated:14.12.1937 and later said Smt. Koruru Parvathamma sold the said land to other non-tribe Sri Kovela Durgayya vide document No.1509, dated:23.12.1943 and further that said Sri Kovela Durgayya sold the land vide document No.88, dt:01.01.1955 to present enjoyer's mother Smt. Boda Nukalamma and all the said transactions were held among the non tribals only as such there is no prohibited transfer involved under the 1 of 1959 Regulation as amended by the 1/70 Regulation and requested to drop all further proceedings.

IV. The Additional Agent to Government, has submitted parawise remarks submitting that the document bearing No.88 dated:01-01-1955 in respect of land transactions held between Sri. Kovela Durgayya and Boda Nukalamma was not placed before the Lower Court for enquiry and that no documents were filed to prove continuous possession and enjoyment of lands and transfer of lands shown as were held between non-tribals only after 1935 but not before and that the subject lands stood over on the name of Kalajala Guravayya and Bhimavarapu Swamy in 1932 as per fair adangal register and that there is no documentary evidence to show that the lands were transferred from them to the vendor Kurukulla Maridayya and the lower court observed that the petition schedule land is a settlement zeroyati without any evidence and further that the Special Deputy Collector (TW), Rampachodavaram mentioned and that no detailed enquiry was held by the Deputy Collector (TW) / Lower Court as such the order passed by the preliminary authority was set aside and requested to dismiss the Revision Petition.

V. Perused the orders passed by both the Special Deputy Collector (TW) and the impugned order passed by the Additional Agent to Government.

VI. The Special Deputy Collector (TW) passed an order in LTRP No. 102/2000 dated:25-06-2002 in support of the Revision Petitioner here in wherein it was observed that" on verification of the fair adangal of Molleru (V) of 1932, it is evident that the Petition Scheduled land is held by Kalajala Guravayya and Bhimavarapu Swamy. As per the documents filed it is evident that the land was transferred to Kurukulla Maridayya and to other subsequent vendees and finally to the 1st respondent who are all non-tribals and that Petition Scheduled land is never in cultivation of tribals at any period of time."

VII. It is true that the Revision Petitioner has filed documents pertaining to land transfer held between the parties from 1935 to 1955 pleading his rights over the subject lands and all such sale transactions were held between non-tribals as argued and prior to the commencement of Andhra Pradesh Scheduled Area Land Transfer Regulations 1 of 70 which prohibit transfer of lands between non-tribals and the provisions are prospective in nature in its application.

VIII. However there is no reference in the impugned proceedings held by the Additional Agent to Government whether the said Kalajala Guravayya and

Bhimavarapu Swamy are belonging to Scheduled Tribes or not in whose favour originally lands stood over as per the Fair Adangal of Molleru(V) of 1932 and how the subject lands came in to possession of vendors Sri Kattingu Maridayya vide Sale Deed Doc No.476, dated.07.06.1935 and whether there is any reference about the original land holders namely Kalajala Guravayya and Bhimavarapu Swamy in the said sale deed held in 1935 between Maridayya and Kamisetty Narayanamurthy.

IX. All the points supra are required to be examined to arrive a correction decision in the matter. Therefore a further enquiry is essential to verify the land transfers held between the parties prior to 1935 since the AP Agency Area Land Transfer Act 1917 which already came in to force on 14th August, 1917.

X. Section 4 (1) of AP Agency Area Land Transfer Act 1917, affirms as "Notwithstanding any rule of law or enactment to the contrary, any transfer of immovable property situated within the Agency Tracts by a member of a hill tribe shall be absolutely null and void unless made in favour of another member of a hill tribe, or with the previous consent in writing of the Agent or of any other prescribed officer".

XI. Agency Tracts Interest and Land Transfer Act, 1917 is an Act to regulate rate of interest and transfer of land in agency tracts. The prohibition imposed with certain restrictions on the 'tribals' restraining them from transferring lands and properties to 'non-tribals' is understandable in as much as the objective is to ensure that the total extent of properties held by the tribals is not diminished.

XII. In exercise of the powers conferred under section 6 of the AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70 the impugned order passed in C.M.A.No.37/2005 dated:08-12-2008 setting aside the orders of the Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District erstwhile East Godavari District passed in LTRP No.102/00, dated:25.06.2002 is hereby set aside.

XIII. The matter is hereby remanded to the Additional Agent to Government, Rampachodavaram, Alluri Sitharama Raju District for an enquiry further by giving an opportunity to all the parties concerned and pass orders accordingly in accordance with the provisions of Land Transfer Regulations 1 of 59 as amended by 1 of 70. The status-quo in respect of the possession and enjoyment of subject lands shall be maintained pending disposal of the remanded matter. As a sequel interim orders if any passed in the matter are hereby vacated. Revision Petition is disposed of accordingly.

6. Government after careful examination of the revision petition and the circumstances stated supra and in exercise of the powers conferred under Section 3 of A.P.S.A.L.T.R., 1959 as amended by Reg. 1/70, the orders passed by the Appellate Authority Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District in CMA No.37/2005, dated:08.12.2008 are hereby set aside and the Revision Petition filed by Sri Boda Appa Rao, S/o Bimayya, Molleru (V), Gangavaram (M), Alluri Sitharamaraju District is disposed is set aside and interim orders passed if any are hereby vacated in the matter.

7. The Collector & District Magistrate, Alluri Sitharamaraju District, Paderu is requested to take necessary action in the matter and acknowledge the receipt of the case records, which are returned herewith to the Additional Agent to Government/ Project Officer, Rampachodavaram, Alluri Sitharamaraju District.

8. This order shall be published in apegazette.cgg.gov.in.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE

PRINCIPAL SECRETARY TO GOVERNMENT

To
The Agent to Government/Collector & District Magistrate,
Paderu, Alluri Sitharamaraju District PIN-530 011.
The Additional Agent to Govt. cum Project Officer,
ITDA, Rampachodavaram,
Alluri Sitharamaraju District, PIN-533 288. (w.e) RPAD
The Special Deputy Collector, Rampachodavaram,
Alluri Sitharamaraju District. PIN-533 288
The Tahsildar, Gangavaram Mandal, Alluri Sitharamaraju District Pin: 533284
Sri Kola Satya Prasad, Advocate,
Near RTC Bus Stand, Rampachodavaram,
Alluri Sitha Ramaraju District, PIN-533288.
Sri Boda Appa Rao, S/o. Bimayya, Molleru (V), Gangavaram (M),
Alluri Sitharamaraju District erstwhile East Godavari District Pin:533285

Copy to:

The OSD to Hon'ble Deputy Chief Minister (TW)
The P.S. to Principal Secretary to Government (TW).
The Commissioner of Printing, Stationery (for Publication in the AP Gazette),Vijayawada.
SF/SC.

// FORWARDED :: BY ORDER //

SECTION OFFICER